

**EXHIBIT**  
**# 1**

IN THE CIRCUIT COURT OF WYOMING COUNTY, WEST VIRGINIA

KENNETH "BUTCH" WARNER,

PLAINTIFF,

vs.

CASE NO. 13-C-79

TOWN OF PINEVILLE,

DEFENDANT.

COMPLAINT

Comes now Kenneth "Butch" Warner, by counsel, and for his complaint he states, avers and says the following:

1. That this is an action to vindicate violations of the Plaintiff's civil rights and to redress the unlawful and discriminatory conduct and employment practices of the Defendant. This action arises from the unlawful and wrongful discharge and treatment of the Plaintiff. The Plaintiff alleges *inter alia* that he was terminated from his employment and targeted for unfair treatment based, in whole or in part, upon his race in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 USC Sections 2000e et seq., and the Civil Rights Act of 1866, as amended by the Civil Rights Restoration Act of 1991, 42 USC Section 1981, in violation of the Statutory and Common Law of the State of West Virginia, and in violation of the 5<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution, and in violation of terms and conditions imposed to prevent race based discrimination in the West Virginia Constitution and the West Virginia Human Rights Act.

2. That he is an adult resident of Wyoming County, West Virginia, now and was at all times referenced herein
3. That he is of African-American heritage and descent, which is a protected class, known historically to be the subject of racial discrimination; furthermore, he was an employee of the Town of Pineville, within the meaning and definitions of the statutes cited herein above and case law.
4. That the Town of Pineville employed him in a supervisor capacity for work crews in the Town of Pineville which consisted of other employees and which performed services deemed necessary for the Town of Pineville.
5. That he was terminated on or about May 25, 2011, by the Town of Pineville, based in whole or in part upon his race.
6. That, while an employee of the Town of Pineville, he was targeted for employee discipline, drug testing and otherwise given negative treatment leading to his termination based upon his race.
7. That while serving in his supervisory capacity, your Plaintiff reported racial slurs made by subordinates to the Mayor and members of the town council. The subordinate was not disciplined, or counseled, and the racial slurs persisted. Your Plaintiff was antagonized, humiliated, and otherwise injured by the Town of Pineville, through its mayor and

counsel failing to control racial epithets and statements made by other town employees even after the same had been reported to the Town of Pineville.

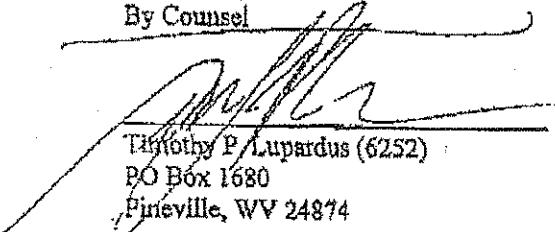
8. Your Plaintiff received disparate treatment, with respect to drug testing, supervision, discipline, work schedules, work assignments, and the like, base in whole or in part upon his race.
9. The Town of Pineville, when acting to terminate your Plaintiff's employment, and when taking other actions with respect to his employment circumstances, often convened and acted outside the presence of the Town's only elected counsel member of African American descent, further evidencing that such actions were taken based, in whole or in part, upon unlawful and discriminatory consideration of Plaintiff's race.
10. That the Town of Pineville violated provisions of its own procedures, handbooks and guidelines with respect to the disparate treatment of your Plaintiff based, in whole or in part, upon his race.
11. Your Plaintiff was humiliated, caused to suffer public embarrassment, caused to suffer the historical discrimination of his race, and otherwise caused aggravation, psychological distress and anxiety as a result of the racial discrimination complained of herein.
12. Your Plaintiff lost a job, lost wages, lost supervisory privileges, and otherwise was cost economic and status damages as a result of the discriminatory practices complained of

herein. He suffered humiliation in the view of his community, friends and family. He suffered private humiliation as well due to the unlawful and discriminatory discharge and treatment alleged herein.

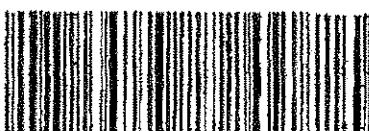
13. He lost wages, seniority, and work opportunities due to the unlawful and discriminatory discharge and treatment alleged herein.
14. That the Town of Pineville, through its agents, employees, mayor and council committed acts outrageous to the ordinarily reasonable and prudent person.

WHEREFORE, your Plaintiff prays that he be awarded compensatory damages against the Town of Pineville, punitive damages against the Town of Pineville, and special damages including front pay, reinstatement, and lost wages incurred. General damages for the tort of outrage, discrimination, anxiety, mental and emotional distress, humiliation, anxiety, and loss of opportunities, together with statutory damages. All with prejudgement and post-judgement interest at allowable rates.

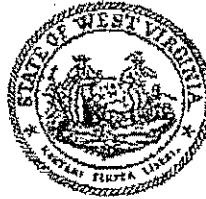
KENNETH WARNER  
By Counsel

  
Timothy P. Lupardus (6252)  
PO Box 1680  
Pineville, WV 24874

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Building 1 Suite 157-K  
1900 Kanawha Blvd E  
Charleston, WV 25306



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Natalie E. Tennant  
Secretary of State  
Telephone: 304-558-6000  
Toll Free: 866-SOS-VOTE  
[www.wvso5.com](http://www.wvso5.com)

ControlNumber: 361652  
Defendant: Town of Pineville

County: 55  
7/25/2013  
Civil Action: 13-C-79

Town of Pineville  
Toni Ellison, Mayor  
PO Box 220  
Pineville WV 24874

I am enclosing:

<input type="checkbox"/> summons	<input type="checkbox"/> affidavit	<input checked="" type="checkbox"/> summons and complaint
<input type="checkbox"/> notice	<input type="checkbox"/> answer	<input type="checkbox"/> summons and verified complaint
<input type="checkbox"/> order	<input type="checkbox"/> cross-claim	<input type="checkbox"/> summons and amended complaint
<input type="checkbox"/> petition	<input type="checkbox"/> counterclaim	<input type="checkbox"/> 3rd party summons and complaint
<input type="checkbox"/> motion	<input type="checkbox"/> request	<input type="checkbox"/> notice of materialman's lien
<input type="checkbox"/> suggestions	<input type="checkbox"/> notice to redeem	<input type="checkbox"/> notice of mechanic's lien
<input type="checkbox"/> Interrogatories	<input type="checkbox"/> request for production	<input type="checkbox"/> re-issue summons and complaint
<input type="checkbox"/> discovery	<input type="checkbox"/> request for admissions	<input type="checkbox"/> subpoena duces tecum
<input type="checkbox"/> suggestee execution	<input type="checkbox"/> notice of UIM claim	<input type="checkbox"/> Other
<input type="checkbox"/> subpoena	<input type="checkbox"/> writ	
<input type="checkbox"/> stipulation	<input type="checkbox"/> writ of mandamus	

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.*

Sincerely,

Natalie E. Tennant  
Secretary of State

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07/30/2013 15:06 FAX 3046828789 NATIONWIDE INSUR 003

SUMMONS

CIRCUIT COURT OF WYOMING COUNTY

KENNETH "BUTCH" WARNER

PLAINTIFF

vs.

Civil Action No. :13-C-79

TOWN OF PINEVILLE

DEFENDANT

To The Above Named Defendant (s):

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Timothy P. Lippardis Attorney for the plaintiff (s), whose address is P.O. Box 1680 Pineville, WV 24874 an answer or other defense, including any related counterclaim you may have, to the complaint filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer or other defense within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Given under my hand this 24 day of MAY, 2013.

  
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Clerk of said Circuit Court